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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/253,810	02/19/1999	JEFFREY W. BRUNER	21.530-B-USA	6116

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT PAPER NUMBER

1771

13

DATE MAILED: 06/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/253,810

Examiner

Cheryl Juska

Applicant(s)

BRUNER, JEFFREY W.

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on March 26, 2002, for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/253,810 is acceptable and a CPA has been established. An action on the CPA follows.
2. Applicant has not filed an amendment or response to the Final Rejection of September 26, 2001. As such, the following action is a repeat of said Final Rejection.

Response to Amendment B

3. Amendment B, submitted as Paper No. 9 on July 5, 2001, has been entered. Claims 12, 15, and 17 have been amended and new claims 18 and 19 have been added as requested. Thus, the pending claims are 12-19.
4. Amendment B is sufficient to withdraw the 112, 2nd rejections set forth in sections 3-8 of the last Office Action.

Claim Rejections - 35 USC § 112

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 is indefinite because it is unclear if the first occurrence of the term "yarns" in line 7 of the claim refers to the warp yarns, the fill yarns, or both the warp and fill yarns.

Standing Prior Art Rejections

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 12-15 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by JP 06-2240 issued to Imose as set forth in section 10 of the last Office Action.
Applicant's amendments to claims 12, 15, and 17 were made to overcome 112 rejections, rather than the prior art rejections. Therefore, said rejections are hereby maintained.
7. Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Imose reference in view of Woven Pile Fabrics in the Automotive Industry, Moulin and Van De Wiele, as set forth in section 12 of the last Office Action.

Response to Arguments

8. Applicant's arguments filed with Amendment A have been fully considered but they are not persuasive.

Applicant traverses the 102 rejection of the claims by the cited Imose patent by arguing that the Imose abstract does not teach or suggest a critical limitation of the claims. Said limitation is that the heating step be controlled so that the composite yarns are heated to a temperature above that of the melting point temperature of the sheath but below the melting point temperature of the core (Amendment B, page 6, lines 16-20).

In response, it is argued that this limitation, although not explicitly stated in said abstract, is inherent to the Imose disclosure. Specifically, Imose explicitly teaches a core/sheath yarn comprising a non-thermally fusible core and a sheath including thermally fusible fibers. Thus, Imose makes a clear distinction between materials which are thermally fusible and those which are not thermally fusible. Additionally, Imose explicitly teaches that these materials must possess melting points which differ by more than 50°C. Furthermore, Imose clearly teaches that the thermally fusible fiber is heat melted. From the explicit teachings of Imose, one skilled in the art easily understands that to make and use the invention, the core/sheath yarn must be heated to a temperature above the melting point of the fusible fiber, but below the melting point of the non-thermally fusible fiber. To heat the yarn to a temperature range other than this, would inherently defeat the intention of the invention. Thus, it is asserted that the abstract of Imose inherently meets Applicant's limitation.

Also, it is noted that the full translation of Imose teaches the fusible fiber is a thermoplastic fiber having a melting point of 170°C or less, while the non-fusible fiber has a melting point at least 50 degrees higher (translation, page 7, section 0010). One particular embodiment comprises a non-fusible core which is of a polyester fiber having a melting point of 250°C or more and a fusible fiber which is a low-melting polyamide fiber of 130°C or less (translation, page 4, claim 4). Additionally, in the working example cited at pages 10-11, Imose teaches that the back of the pile article is heated so that the fusible fiber is melted. Thus, it is clear to the skilled artisan that the heating temperature is inherently above the melting point of the fusible fiber, but below the melting point of the non-thermally fusible fiber. Therefore, Applicant's arguments are found unpersuasive and the above 102 rejection is hereby maintained.

With respect to the 103 rejection of claim 16, Applicant merely relies upon the traversal of claim 12. Since said traversal was found unpersuasive, the rejection of 16 is also hereby maintained.

New Claim Rejections

9. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by the cited Imose reference.

New claims 18 and 19 limit the core of the composite yarns to being a thermoplastic material. As noted above, Imose explicitly teaches the core material may be polyester. Since polyester is inherently a thermoplastic material, claims 18 and 19 are rejected as being anticipated by the cited Imose reference.

Conclusion

6. This is a CPA of Applicant's earlier Application No. 09/253810. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CHERYL A. JUSKA
PRIMARY EXAMINER

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June 6, 2002